

103^D CONGRESS
2^D SESSION

S. 1979

To require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, FEBRUARY 22), 1994

Mrs. MURRAY (for herself, Mrs. FEINSTEIN, Ms. MOSELEY-BRAUN, Mrs. BOXER, Mr. KENNEDY, and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sexual Harassment
5 Prevention Act of 1994”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) Sexual harassment in employment persists
2 widely in the workplace, although it violates title VII
3 of the Civil Rights Act of 1964 (42 U.S.C. 2000e et
4 seq.) and adversely affects employees.

5 (2) According to guidelines issued by the Equal
6 Employment Opportunity Commission in 1980, the
7 most effective tool for eliminating sexual harassment
8 is prevention.

9 (3) The Merit Systems Protection Board found
10 in 1981 and 1988 surveys of Federal Government
11 employees that 42 percent of female employees and
12 14 percent of male employees questioned had experi-
13 enced some kind of harassment in employment. The
14 American Psychological Association estimates that
15 at least 50 percent of all working women have been
16 sexually harassed at the workplace during their
17 careers.

18 (4) The vast majority of sexual harassment epi-
19 sodes go unreported to a supervisory employee or
20 other individual designated by the employer. Only 5
21 percent of the Government employees who indicated
22 in the 1988 Merit Systems Protection Board survey
23 that they had been harassed filed a formal complaint
24 or requested an investigation of the harassment.

1 (5) Sexual harassment has a significant cost for
2 employees and employers. A 1988 study by Working
3 Woman Magazine shows that sexual harassment
4 costs a typical “Fortune 500” employer \$6,000,000,
5 or \$292.53 per employee, each year. The same study
6 estimates that it is 34 times more expensive for such
7 an employer to ignore the problem than to establish
8 effective programs and policies to address the
9 problem.

10 (b) PURPOSES.—The purposes of this Act are—

11 (1) to establish workplace requirements that
12 will reduce the incidence of sexual harassment in
13 employment;

14 (2) to provide a low-cost system to assist em-
15 ployers to establish programs and policies to prevent
16 sexual harassment in employment;

17 (3) to raise the awareness of employees of the
18 definition of sexual harassment and of available ave-
19 nues of redress; and

20 (4) to increase the authority and capacity of the
21 Equal Employment Opportunity Commission, and
22 other enforcement agencies, to assist in preventing
23 sexual harassment in employment.

1 **SEC. 3. EMPLOYER REQUIREMENTS.**

2 (a) POSTING OF NOTICE IN THE WORKPLACE.—

3 Each employer shall post and keep posted in conspicuous
4 places upon its premises where notices to employees and
5 applicants for employment are customarily posted, a no-
6 tice that shall be prepared or approved by the appropriate
7 primary enforcement agency and shall set forth—

8 (1) the definition of sexual harassment found in
9 section 1604.11(a) of title 29, Code of Federal Reg-
10 ulations (or any corresponding similar regulation);

11 (2) the fact that sexual harassment in employ-
12 ment is a violation of Federal law;

13 (3) information describing how to file with the
14 primary enforcement agency a complaint alleging
15 such harassment, including information on the time
16 periods within which an alleged victim of discrimina-
17 tion (including sexual harassment) must file a
18 charge with the primary enforcement agency, or a
19 State or local fair employment agency, in order to
20 satisfy the applicable statute of limitations;

21 (4) an address, and the toll-free telephone num-
22 ber, to be used to contact the appropriate enforce-
23 ment agency regarding such harassment or compli-
24 ance with the requirements of this Act; and

25 (5) such other information as the primary en-
26 forcement agency may require.

1 (b) SEPARATE NOTICE TO INDIVIDUAL EMPLOY-
2 EES.—

3 (1) CONTENTS.—Each employer shall provide
4 annually to each employee individually a written no-
5 tice that includes—

6 (A) the information specified in para-
7 graphs (1) through (4) of subsection (a);

8 (B) a description of the procedures estab-
9 lished by such employer to resolve allegations of
10 sexual harassment in employment; and

11 (C) such other information as the appro-
12 priate primary enforcement agency may require.

13 (2) MANNER OF NOTICE.—Such notice shall be
14 provided in a manner that ensures that such em-
15 ployee actually receives such notice.

16 (c) MANAGEMENT INFORMATION FOR SUPERVISORY
17 EMPLOYEES.—Not later than 60 days after an employer
18 places an individual in a supervisory employment position
19 or 1 year after the date of the enactment of this Act,
20 whichever occurs later, such employer shall provide to the
21 supervisory employee information specifying the respon-
22 sibilities of, and the methods to be used by, such employee
23 to ensure that immediate and corrective action is taken
24 to address allegations of sexual harassment in employ-
25 ment.

1 (d) CIVIL PENALTY.—A willful violation of this sec-
2 tion shall be punishable by a civil penalty of not more than
3 \$1,000 for each separate violation.

4 **SEC. 4. DUTIES OF THE ENFORCEMENT AGENCIES.**

5 (a) TECHNICAL ASSISTANCE MATERIALS.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of the enactment of this Act, each pri-
8 mary enforcement agency shall prepare and make
9 available to employers at no cost to the employers
10 (by publication in the Federal Register or other
11 means)—

12 (A) a model notice of the kind required by
13 section 3(a) to be posted;

14 (B) a model notice of the kind required by
15 section 3(b) to be provided to employees; and

16 (C) voluntary guidelines for the establish-
17 ment of policies and procedures by employers to
18 address allegations of discrimination (including
19 sexual harassment) in employment.

20 (2) REVISIONS.—The primary enforcement
21 agency shall periodically review and, as appropriate,
22 revise the notices and guidelines described in sub-
23 paragraphs (A) through (C) of paragraph (1).

24 (b) TOLL-FREE TELEPHONE NUMBER.—Not later
25 than 180 days after the date of the enactment of this Act,

1 the primary enforcement agency shall provide a toll-free
2 telephone number for use by employees and employers in
3 the United States to obtain—

4 (1) information regarding compliance with this
5 Act; and

6 (2) the model notices and guidelines prepared
7 under subsection (a).

8 **SEC. 5. ENFORCEMENT.**

9 (a) PRIVATE EMPLOYEES; EXECUTIVE EMPLOYEES;
10 EMPLOYEES OF INSTRUMENTALITIES; STATE EMPLOY-
11 EES.—If an employee described in subparagraph (A), (B),
12 (E), or (F) of section 6(2) alleges a violation of section
13 3, the Commission shall enforce the section in the same
14 manner as the Commission enforces section 711 of the
15 Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

16 (b) HOUSE OF REPRESENTATIVES EMPLOYEES.—

17 (1) HEARING.—If an employee described in sec-
18 tion 6(2)(C) alleges a violation of section 3, the Of-
19 fice of Fair Employment Practices of the House of
20 Representatives (or such entity as the House of Rep-
21 resentatives may designate) shall consider the allega-
22 tion in accordance with the hearing procedures pro-
23 vided in clause 6 of Rule LI of the Rules of the
24 House of Representatives of the 103d Congress (or
25 any other provision that continues in effect the pro-

visions of such rule). In carrying out such procedures, such Office or entity shall permit an employee, or a representative of the Office or entity, to file a complaint not later than 180 days after the alleged violation, and shall not require compliance with any counseling and mediation procedures provided in such rule or provision.

(2) REVIEW.—Any party to a proceeding conducted under paragraph (1) may seek review of a final decision resulting from such proceeding. Such review shall be conducted by such Office or entity in accordance with the review procedures provided in clause 7 of such rule (or such other provision).

(3) PROCEDURES.—In conducting a proceeding under paragraph (1) or (2), such Office or entity shall conduct the proceeding in accordance with any requirement of such rule (or such other provision) that relates to such a proceeding, including a requirement relating to agreements, costs, closed hearings and confidentiality, and requests for witnesses and information.

(4) REMEDIES.—Following a proceeding under paragraph (1) or (2), if the Office or entity finds that an employer is not in compliance with section

1 3, such Office or entity may order the civil penalty
2 described in section 3(d).

3 (c) SENATE EMPLOYEES.—

4 (1) HEARING.—If an employee described in sec-
5 tion 6(2)(D) alleges a violation of section 3, the Of-
6 fice of Senate Fair Employment Practices (or such
7 entity as the Senate may designate) shall consider
8 the allegation in accordance with the hearing proce-
9 dures provided in section 307 of the Government
10 Employee Rights Act of 1991 (2 U.S.C. 1207) (or
11 any other provision that continues in effect the pro-
12 visions of such Act). In carrying out such proce-
13 dures, such Office or entity shall permit an em-
14 ployee, or a representative of such Office or entity,
15 to file a complaint not later than 180 days after the
16 alleged violation, and shall not require compliance
17 with any counseling and mediation procedures pro-
18 vided in such Act or provision.

19 (2) REVIEW.—Any party to a proceeding con-
20 ducted under paragraph (1) may seek review of a
21 final decision resulting from such proceeding. Such
22 review shall be conducted by the Select Committee
23 on Ethics (or by such entity as the Senate may des-
24 ignate) in accordance with the review procedures

1 provided in section 308 of such Act (or such other
2 provision).

3 (3) JUDICIAL REVIEW.—Any party to a pro-
4 ceeding conducted under paragraph (2) may seek re-
5 view of a final decision resulting from such proceed-
6 ing. Such review shall be conducted by the United
7 States Court of Appeals for the Federal Circuit in
8 accordance with the procedures provided in section
9 309 of such Act.

10 (4) PROCEDURES.—In conducting a proceeding
11 under paragraph (1) or (2), the appropriate Office,
12 Committee, or entity shall conduct the proceeding in
13 accordance with any requirement of such Act (or
14 such other provision) that relates to such a proceed-
15 ing, including a requirement relating to agreements,
16 costs, closed hearings and confidentiality, and re-
17 quests for witnesses and information.

18 (5) REMEDIES.—Following a proceeding under
19 paragraph (1), (2), or (3), if the appropriate Office,
20 Committee, entity, or court finds that an employer
21 is not in compliance with section 3, the Office, Com-
22 mittee, entity, or court may order the civil penalty
23 described in section 3(d).

24 **SEC. 6. DEFINITIONS.**

25 As used in this Act:

1 (1) COMMISSION.—The term “Commission”
2 means the Equal Employment Opportunity Commis-
3 sion.

4 (2) EMPLOYEE.—The term “employee”
5 means—

6 (A) an employee as defined in section
7 701(f) of the Civil Rights Act of 1964 (42
8 U.S.C. 2000e(f));

9 (B) an employee referred to in section
10 717(a) of such Act (42 U.S.C. 2000e–16(a));

11 (C) an employee in an employment position
12 of the House of Representatives;

13 (D) a Senate employee as defined in sec-
14 tion 301(c)(1) of the Government Employee
15 Rights Act of 1991 (2 U.S.C. 1201(c)(1));

16 (E) an employee (other than an employee
17 described in subparagraph (B) or (D)) in an
18 employment position of an instrumentality of
19 the Congress; and

20 (F) an individual referred to in section
21 321(a) of the Civil Rights Act of 1991 (2
22 U.S.C. 1220(a)).

23 (3) EMPLOYER.—The term “employer”
24 means—

1 (A) an employer as defined in section
2 701(b) of the Civil Rights Act of 1964 (42
3 U.S.C. 2000e(b));

4 (B) a Federal entity, or entity of the Gov-
5 ernment of the District of Columbia, to which
6 section 717(a) of the Civil Rights Act of 1964
7 (42 U.S.C. 2000e-16(a)) applies;

8 (C) an employing authority of the House
9 of Representatives, of the Senate, or of an in-
10 strumentality of the Congress; and

11 (D) an elected official described in section
12 321(a) of the Civil Rights Act of 1991.

13 (4) INSTRUMENTALITY OF THE CONGRESS.—
14 The term “instrumentality of the Congress” means
15 the Architect of the Capitol, the Congressional
16 Budget Office, the General Accounting Office, the
17 Government Printing Office, the Library of Con-
18 gress, the Office of Technology Assessment, the
19 United States Botanic Garden, and any other office
20 of the legislative branch of the Federal Government.

21 (5) PRIMARY ENFORCEMENT AGENCY.—The
22 term “primary enforcement agency” means—

23 (A) with respect to any matter relating to
24 an allegation of sexual harassment of an em-

1 employee described in subparagraph (A), (B), (E),
2 or (F) of paragraph (2), the Commission;

3 (B) with respect to any matter relating to
4 an allegation of sexual harassment of an em-
5 ployee described in paragraph (2)(C), the Office
6 of Fair Employment Practices of the House of
7 Representatives (or such entity as the House of
8 Representatives may designate); and

9 (C) with respect to any matter relating to
10 an allegation of sexual harassment of an em-
11 ployee described in paragraph (2)(D), the Office
12 of Senate Fair Employment Practices (or such
13 entity as the Senate may designate).

14 (6) SEXUAL HARASSMENT.—The term “sexual
15 harassment” has the same meaning as such term
16 has for purposes of title VII of the Civil Rights Act
17 of 1964 (42 U.S.C. 2000e et seq.).

18 **SEC. 7. EFFECTIVE DATES.**

19 (a) GENERAL EFFECTIVE DATE.—Except as pro-
20 vided in subsection (b), this Act shall take effect on the
21 date of the enactment of this Act.

22 (b) EMPLOYER REQUIREMENTS.—Section 3 shall
23 take effect 1 year after the date of the enactment of this
24 Act.

○